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 BH&G HOLDINGS, LLC, *et al.*

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CITY BAY CAPITAL LLC, a New York limited liability company,

Plaintiff,

v.

BH&G HOLDINGS, LLC, a Nevada limited liability company; BH&G ENTERPRISES, LLC, a Nevada limited liability company; GREEN MESA CAPITAL LLC, a Nevada limited liability company; MGP APEX 582 DEVELOPMENT, LLC formerly known as GMC APEX 582 DEVELOPMENT, LLC, a Nevada limited liability company; MGP APEX 582 GUARANTY, LLC formerly known as GMC APEX 582 GUARANTY, LLC, a Nevada limited liability company; MGP APEX 582 MULTIFAMILY, LLC formerly known as GMC APEX 582 MULTIFAMILY, LLC, a Nevada limited liability company; MULTIGREEN PROPERTIES, LLC, a Nevada limited liability company; TRU DEVELOPMENT LLC, a Nevada limited liability company; and DOES 1 through 50, inclusive,

Defendants.

CASE NO.: 2:21-cv-01790-RFB-EJY

**STIPULATION AND ORDER TO
EXTEND DISCOVERY DEADLINES**

[EIGHTH REQUEST]

Pursuant to Fed. R. Civ. P. 26(f) and Local Rule 26-4, City Bay Capital LLC (“Plaintiff”), by and through its attorneys of record, Jason M. Wiley, Esq. of the law firm Wiley Petersen; and Defendants BH&G Holdings, LLC, BH&G Enterprises LLC, Green Mesa Capital LLC, MGP Apex 582 Development, LLC; MGP Apex 582 Guaranty, LLC; MGP Apex 582, Multifamily, LLC, MultiGreen Properties, LLC, and Tru Development LLC (collectively, “Defendants”), by and through their attorneys of record, Karen L. Bashor, Esq. and I-Che Lai, Esq. of the law firm Wilson Elser Moskowitz Edelman & Dicker LLP and Bethany W. Kristovich, Esq. and James R. Salzmann, Esq. of the law firm Munger, Tolles & Olson LLP, hereby stipulate to amend the September 12, 2023 Scheduling Order (ECF No. 70) to extend the remaining discovery schedule by sixty (60) days.

I. STATEMENT OF DISCOVERY COMPLETED

The parties have engaged in the following discovery:

1. Plaintiff served several third parties with subpoenas duces tecum;
2. Defendants produced a Supplemental Declaration of Randy C. Norton and documents in furtherance of jurisdictional discovery (ECF No. 12);
3. Plaintiff served in furtherance of jurisdictional discovery a subpoena to testify at a deposition in a civil action and a subpoena duces tecum upon Ricardo Alberto Melero, with Mr. Melero’s appearance and production of documents scheduled for September 30, 2022, at 10:00 AM in Orlando, Florida. Due (initially) to Hurricane Ian’s impact and the parties’ engagement in settlement negotiations, Mr. Melero’s deposition was postponed;
4. On March 9, 2023, Plaintiff took the deposition of Ricardo Alberto Melero;
5. On April 10, 2023, the parties, along with Trez Capital, submitted a Stipulated Protective Order regarding documents to be disclosed by Trez Capital in furtherance of jurisdictional discovery. (ECF No. 52). The Court issued its Order Granting Stipulated Protective Order that same day. (ECF No. 53);
6. Plaintiff received and reviewed documents responsive to subpoenas duces tecum from Trez Capital in furtherance of jurisdiction discovery on April 12, 2023;
7. Defendants propounded their First Set of Interrogatories to Plaintiff on August 18, 2023; and

8. On August 18, 2023, Defendants filed their Notice of Deposition of Plaintiff's FRCP 30(b)(6) Designee to take place on September 18, 2023, in Los Angeles, CA, together with a Request for Documents.

9. On October 13, 2023, Plaintiff served responses to Defendants' First Set of Interrogatories.

II. DISCOVERY THAT REMAINS TO BE COMPLETED

The following discovery is still anticipated:

1. Initial disclosures by all parties pursuant to Fed. R. Civ. P. 26;
2. Deposition of Tim Deters, CEO of Defendant Tru Development;
3. Deposition of Randy Norton, CEO of Defendants MultiGreen Properties, LLC and Green Mesa Capital LLC;
4. Deposition of Michael Zysman, Managing Principal of Plaintiff;
4. Disclosure of expert witnesses and depositions of expert witnesses;
5. Written discovery to Defendants Green Mesa Capital LLC, MGP Apex 582 Development, LLC; MGP Apex 582 Guaranty, LLC; MGP Apex 582, Multifamily, LLC, MultiGreen Properties, LLC, and Tru Development LLC.
6. Additional third-party subpoenas duces tecum and for depositions (as needed); and
7. Potential motion practice to compel the production of documents (or otherwise unsatisfactory discovery responses), may also be needed.

III. THE REASONS WHY THE REMAINING DISCOVERY HAS NOT BEEN COMPLETED

This is the eighth request for an extension of the discovery deadlines. However, the parties' first three requests related only to an extension of the jurisdictional discovery deadline. (ECF No. 54). This is the fifth request to continue the complete set of discovery deadlines. *Id.* All prior requests for extensions of discovery deadlines were completed through a stipulation between the parties.

Pursuant to LR 26-3, if the parties are requesting the extension of discovery deadlines within 21 days of the subject deadline, the request must be supported by a showing of good cause. As the parties are making their request more than 21 days in advance of the deadline, this requirement does

not apply. Even if it did however, good cause to extend the remaining discovery deadlines exists. The parties have been diligently pursuing both fact and jurisdictional discovery as evidenced by the completed discovery outlined above. However, on August 9, 2023, an involuntary petition pursuant to 11 U.S.C. § 303 was filed as to Defendant BH&G Holdings, LLC in the United States Bankruptcy Court for the District of Nevada, automatically staying the action as to that Defendant. (ECF No. 63). On October 31, 2023, the Bankruptcy Court entered an Order for Relief Under Chapter 11 as to Defendant BH&G Holdings, LLC. A further hearing in the bankruptcy matter is currently set for December 12, 2023. An extension of the current discovery deadlines will allow the parties to conduct the remaining discovery, while also allowing time for the December 12th hearing and further bankruptcy proceedings. Additionally, the parties are currently attempting to resolve the pending jurisdictional challenges through the motion work. (ECF Nos. 56, 57, 58, 60, 64 and 68). Hearing on this matter has not yet been set.

As this extension request is made jointly by the parties, there is no danger of prejudice. Based on the foregoing, the good cause exists to extend the discovery deadlines. This request is not sought for delay or any other improper purpose.

IV. PROPOSED DISCOVERY SCHEDULE

Except as indicated, the parties agree to the following proposed new deadlines:

EVENT	CURRENT DEADLINE	PROPOSED NEW DATE
Dispositive Motions	1/15/2024	3/15/2024, or 60 days after the resolution of pending Motion to Dismiss (Dkt. 56)
Discovery Cutoff	12/15/2023	2/15/2024
Joint Pretrial Order	2/12/2024, or 30 days after resolution of dispositive motions or further order of the Court	4/12/2024, or 30 days after resolution of dispositive motions or further order of the Court

1 DATED this 15th day of November 2023.

2 **WILEY PETERSEN**

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DATED this 15th day of November 2023.

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Attorneys for Defendants

IT IS SO ORDERED:

DATED: November 15, 2023


UNITED STATES MAGISTRATE JUDGE